

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**ORDER
Criminal File No. 07-353(1) (MJD)**

MARTIN SANCHEZ-BARRERA,

Defendant.

Andrew S. Dunne and Kimberly A. Svendsen, Assistant United States Attorneys,
Counsel for Plaintiff.

Alejandro A. Espinosa, Counsel for Defendant.

This matter is before the Court upon Defendant's Motion to Amend the
Presentence Investigation Report ("PSR").

The Defendant was sentenced on April 22, 2008. At the end of the
sentencing hearing, the Defendant challenged paragraph 43 of the PSR to the
extent it provided that he had never filed tax returns. The Court allowed the
Defendant an opportunity to submit evidence establishing that he has, in fact,
filed tax returns. The Defendant's current motion, however, does not address the

issue of tax returns. Instead, the Defendant seeks to challenge many aspects of the PSR that were previously addressed by the Court, such as whether the Defendant should receive a reduction for a minor role and whether the Defendant was entitled to a safety-valve reduction.

Title 18 U.S.C. § 3582 (c) provides that a Court may modify a sentence that has been imposed: 1) upon motion of the Director of the Bureau of Prisons; 2) as permitted by statute or Rule 35 of the Federal Rules of Criminal Procedure; and 3) if the Defendant was sentenced based on a sentencing range that subsequently was lowered by the Sentencing Commission.

There is no motion before the Court from the Bureau of Prisons, nor was the applicable sentencing range lowered. Fed. R. Crim. P. 35(a) provides that a Court may, within seven days of sentencing, correct a sentence that was imposed due to an arithmetical, technical or other clear error. The Defendant's motion does not fall within this provision, however. See Fed. R. Crim. P. 35 advisory committee notes (noting this section not intended to afford the Court the opportunity to reconsider the application or interpretation of the sentencing guidelines or for the Court to change its mind.)

Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Amend the
Presentence Investigation Report [Doc. No. 28] is DENIED.

Date: May 7, 2008

s / Michael J. Davis
Michael J. Davis
United States District Court

Crim. No. 07-353